

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:17-cr-0005-KJD-NJK
Related Case: 2:18-cv-1085-KJD

V.

SETH WITTNER,

Defendant.

ORDER

Before the Court is Seth Wittner's amended motion to vacate his sentence under 28 U.S.C. § 2255 (ECF No. 48). Also before the Court is Mr. Wittner's motion for ruling due to the COVID-19 public health emergency (ECF No. 51). Mr. Wittner requests an expedited ruling on his petition given his apparent increased risk of contracting COVID-19 while in prison and his overall susceptibility to the disease as a nearly seventy-year-old inmate. Rule 4(b) of the Rules Governing § 2255 Petitions requires the Court to promptly review each § 2255 petition. If the Court cannot summarily dismiss the petition, it must order the United States attorney to respond. The United States does not oppose an expedited ruling (ECF No. 52) and has not yet responded to Wittner's underlying petition.

The Court has performed a preliminary review of Mr. Wittner's petition and determines that a response would aid the Court's analysis. Additionally, because Mr. Wittner's petition raises several claims of ineffective assistance of counsel, the Court finds that an affidavit from Mr. Wittner's former counsel, Michael Pariente, would also aid in its resolution of the petition.

Accordingly, **IT IS HEREBY ORDERED** that the attorney-client privilege in 2:17-cr-0005-KJD-NJK between Seth Wittner and attorney Michael Pariente shall be deemed waived for all purposes related to Mr. Wittner's § 2255 petition to vacate. Former defense counsel, Michael Pariente, shall, within seven days of entry of this order provide Assistant United States Attorney

1 Elizabeth White an affidavit concerning all information known to him related to the claims in
2 Mr. Wittner's petition to vacate. Further, Mr. Pariente may communicate with Ms. White and
3 any other United States attorney to provide the supporting information necessary to resolve Mr.
4 Wittner's petition.

5 **IT IS FURTHER ORDERED** that the United States shall file a response to Mr.
6 Wittner's motion to vacate (ECF No. 48), including any affidavits or documentary evidence from
7 Mr. Pariente, within twenty-one days of entry of this order. Mr. Wittner may file a reply to the
8 government's response within seven days of its entry.

9 IT IS SO ORDERED.

10 Dated this 31st day of March, 2020.



Kent J. Dawson
United States District Judge